



General Assembly

January Session, 2005

Raised Bill No. 1220

LCO No. 4160

04160_____BA_

Referred to Committee on Banks

Introduced by:
(BA)

AN ACT CONCERNING CHECK CASHING SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) Each substantial
2 stockholder, partner, director, officer, agent or employee of a licensee,
3 as defined in section 36a-580 of the general statutes, as amended by
4 this act, shall submit to state and national criminal history records
5 checks as the Banking Commissioner deems necessary. The state and
6 national criminal history records checks required pursuant to this
7 section shall be conducted in accordance with section 29-17a of the
8 general statutes. For the purposes of this section, "substantial
9 stockholder" means any person owning or controlling ten per cent or
10 more of the total outstanding stock of the corporation of which such
11 person is a stockholder.

12 Sec. 2. Section 36a-580 of the general statutes is repealed and the
13 following is substituted in lieu thereof (*Effective October 1, 2005*):

14 (a) For purposes of this chapter:

15 (1) "General facility" means a facility at a fixed location where a

16 licensee may engage in the business of cashing checks, drafts or money
17 orders and which is open to the general public for at least six hours per
18 day four days per week; [.]

19 (2) "Limited facility" means a mobile facility, where on no more than
20 two days per week, on property occupied by an employer, a licensed
21 operator of a general facility may, under written contract with such
22 employer, engage in the business of cashing payroll checks for the
23 employees of the employer;

24 (3) "Licensee" means a person authorized to engage in the business
25 of cashing checks, drafts or money orders for any form of monetary
26 consideration or charge; and
27

28 (4) "Payroll service" means a service provided by a licensee to an
29 employer in which the employer pays a fixed fee or rate for the on-site
30 delivery of payroll checks or cashing of payroll checks issued to its
31 employees, at no cost to the employees.

32 (b) The provisions of this section and sections 36a-581 to 36a-589,
33 inclusive, as amended by this act, shall not apply to: (1) Checks, drafts
34 or money orders cashed without consideration or charge; (2) checks,
35 drafts or money orders cashed as an incident to the conduct of any
36 other lawful business where not more than fifty cents is charged for
37 cashing such check, draft or money order; or (3) any institution subject
38 to and under the general supervision of any agency of the United
39 States or any [entity] bank subject to the general supervision of the
40 commissioner.

41 Sec. 3. Section 36a-581 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective October 1, 2005*):

43 (a) Except as provided for in section 36a-580, no person shall engage
44 in the business of cashing checks, drafts or money orders for
45 consideration without obtaining a license to operate a general facility
46 or a license to operate a limited facility for each location where such
47 business is to be conducted.

48 (b) Each licensee of a limited facility shall continuously maintain at
49 least one operating general facility. A licensee of a limited facility shall
50 not pay any compensation or consideration to any employer.

51 (c) An application for a check cashing license or renewal of such
52 license shall be in writing, under oath and on a form provided by the
53 commissioner. The application shall set forth: (1) The name and
54 address of the applicant; (2) if the applicant is a firm or partnership,
55 the names and addresses of each member of the firm or partnership;
56 (3) if the applicant is a corporation, the names and addresses of each
57 officer, director, authorized agent and each shareholder owning ten
58 per cent or more of the outstanding stock of such corporation; (4) if the
59 applicant is a limited liability company, the names and addresses of
60 each manager and authorized agent of such limited liability company;
61 (5) each location where the check cashing business is to be conducted
62 and the type of facility that will be operated at that location; (6) the
63 business plan, which shall include the proposed days and hours of
64 operation; (7) the amount of liquid assets available for each location
65 which shall not be less than the amount specified in subdivision (6) of
66 subsection (e) of this section; (8) for each limited facility, a copy of the
67 executed contract evidencing the proposed arrangement between the
68 applicant and the employer; and (9) any other information the
69 commissioner may require.

70 (d) A licensee shall not change the location specified on its license
71 unless, prior to such change in location, the licensee files an application
72 with the commissioner for change in location accompanied by the
73 location transfer fee and receives the approval of the commissioner. A
74 licensee of a limited facility shall not change its approved days and
75 hours of operation unless, prior to any such change, the licensee files
76 an application with and receives the approval of the commissioner. No
77 general facility or limited facility shall be located within two thousand
78 five hundred feet of an existing facility or limited facility. Such
79 distance shall be measured as the radius of a circle with the entrance to
80 the existing office or mobile office considered the center point from

81 which the radius is measured.

82 (e) Upon the filing of the required application and the applicable
 83 application and license fees, the commissioner shall investigate the
 84 facts and may issue a license if the commissioner finds that (1) the
 85 applicant is in all respects properly qualified and of good character, (2)
 86 if the applicant is a firm or partnership, each member of the firm or
 87 partnership is in all respects properly qualified and of good character,
 88 (3) if the applicant is a corporation, each officer, director, authorized
 89 agent and each shareholder owning ten per cent or more of the
 90 outstanding stock of such corporation is in all respects properly
 91 qualified and of good character, (4) if the applicant is a limited liability
 92 company, each manager and authorized agent is in all respects
 93 properly qualified and of good character, (5) granting such license
 94 would not be against the public interest, (6) the applicant has a feasible
 95 plan for conducting business, and (7) the applicant has available and
 96 shall continuously maintain liquid assets of at least ten thousand
 97 dollars for each general facility location and at least two thousand five
 98 hundred dollars for each limited facility location specified in the
 99 application.

100 (f) An applicant or licensee shall promptly notify the commissioner,
 101 in writing, of any change in the information provided in its initial or
 102 renewal application for licensure or most recent renewal of such
 103 license.

104 (g) Any person who holds a license in good standing on October 1,
 105 2005, and who wishes to continue to engage in the business of cashing
 106 checks, shall, not later than January 1, 2006, submit to the
 107 commissioner a written statement certified to be true under penalty of
 108 law that the licensee complies with the provisions of this part. Such
 109 statement shall include the information specified in subdivisions (1) to
 110 (5), inclusive, of subsection (c) of this section. Upon submission of such
 111 statement under oath, a person's current license shall continue in
 112 accordance with the provisions of this part. A person whose existing

113 license is continued under this subsection shall not be subject to the
114 requirements of subsection (d) of this section with respect to any
115 location licensed as of October 1, 2005.

116 Sec. 4. Section 36a-584 of the general statutes is repealed and the
117 following is substituted in lieu thereof (*Effective October 1, 2005*):

118 (a) A check cashing licensee shall not charge or collect in fees,
119 charges or otherwise, a sum in excess of one per cent of the check for
120 cashing a check drawn by the state of Connecticut and payable within
121 this state to a recipient of public assistance, as defined in section 36a-
122 304, if the check is negotiated to the licensee by the original payee of
123 the check, and if the payee produces reasonable identification, as
124 provided for in regulations adopted pursuant to section 36a-305.

125 (b) No check cashing licensee shall cash an item if the amount
126 exceeds [two thousand five hundred] fifteen thousand dollars. This
127 subsection shall not apply to (1) the cashing of any check, draft or
128 money order drawn by the United States, any state or any political
129 subdivision of a state, or by any department, bureau, agency,
130 authority, instrumentality or officer, acting in such officer's official
131 capacity, of the United States, any state or any political subdivision of a
132 state, (2) the cashing of any check which has been certified by the
133 depository institution on which it has been drawn, (3) the cashing of
134 any check drawn by an insurance company for the payment of a claim,
135 [and] (4) the cashing of any check drawn by an attorney from the
136 attorney's clients' funds account, and (5) the cashing of any check, draft
137 or money order where the payee is not an individual as long as the
138 licensee complies with all recordkeeping and reporting requirements
139 specified in this part.

140 Sec. 5. Section 36a-585 of the general statutes is repealed and the
141 following is substituted in lieu thereof (*Effective October 1, 2005*):

142 (a) The commissioner shall, by regulation adopted in accordance
143 with the provisions of chapter 54, establish the maximum fees which

144 may be charged by a licensee for cashing a check, draft or money order
 145 drawn on a depository institution. No check cashing licensee shall
 146 charge any sum in excess of that established by such regulation or one
 147 dollar, whichever is greater. In establishing maximum fees under this
 148 section, the commissioner shall consider: (1) The effect any change in
 149 rates will have on consumers; (2) start-up costs, operational expenses,
 150 volume of business, and any other information the commissioner
 151 deems relevant. The licensee shall conspicuously post and at all times
 152 display, at each place of business, a schedule of fees permitted under
 153 sections 36a-580 to 36a-589, inclusive, as amended by this act. The sum
 154 of any payment made by an employee or by an employer on behalf of
 155 the employee to a licensee of a limited facility for cashing payroll
 156 checks shall not exceed the percentage limitation for maximum fees
 157 established by the commissioner in regulations adopted pursuant to
 158 this section.

159 (b) A payroll service provider shall not be subject to the maximum
 160 fees provided in subsection (a) of this section when providing such
 161 services.

162 Sec. 6. Section 36a-586 of the general statutes is repealed and the
 163 following is substituted in lieu thereof (*Effective October 1, 2005*):

164 (a) Each check cashing licensee shall use and maintain at a general
 165 facility in this state, in the form satisfactory to the commissioner, such
 166 books, records and accounts as will enable the commissioner to
 167 determine whether the licensee is complying with the provisions of
 168 sections 36a-580 to 36a-589, inclusive, as amended by this act. Each
 169 licensee shall retain such books, records and accounts for not less than
 170 the periods of time specified in regulations adopted by the
 171 commissioner in accordance with section 36a-588.

172 (b) Before a licensee deposits with any financial institution a check,
 173 draft or money order cashed by such licensee, the item shall be
 174 endorsed with the actual name under which the licensee is doing
 175 business and must have the words "licensed check cashing service"

176 legibly written or stamped immediately after or below such name.

177 (c) Each check cashing licensee shall comply with the applicable
178 provisions of the Currency and Foreign Transactions Reporting Act, 31
179 USC Section 5311 et seq., as from time to time amended, and any
180 regulations adopted under such provisions, as from time to time
181 amended.

182 (d) Each check cashing licensee shall file with the Attorney General
183 a duplicate copy of any report a licensee is required to file pursuant to
184 the Currency and Foreign Transactions Reporting Act, 31 USC Section
185 5311 et seq., as from time to time amended, including, but not limited
186 to, any reports of qualifying currency transactions, suspicious activities
187 or suspected terrorist financing.

188 Sec. 7. (NEW) (*Effective October 1, 2005*) (a) Any person who
189 knowingly cashes a check, draft or money order for consideration
190 without obtaining a license in accordance with the provisions of
191 section 36a-581 of the general statutes, as amended by this act, shall:

192 (1) Be guilty of a class C misdemeanor, if the face value of the check,
193 draft or money order is less than one thousand dollars;

194 (2) Be guilty of a class B misdemeanor, if the face value of the check,
195 draft or money order is one thousand dollars or more but is less than
196 ten thousand dollars;

197 (3) Be guilty of a class A misdemeanor, if such person has a
198 previous conviction for violation of this section.

199 (b) Any person who knowingly cashes a check, draft or money
200 order for consideration without having obtained a license and the
201 transaction would require, in accordance with the laws and regulations
202 of this state, the submission of a report to the commissioner or any
203 other official of this state if such person had obtained a license, shall be
204 guilty of a class A misdemeanor.

205 (c) Notwithstanding the provisions of section 53a-42 of the general
 206 statutes, any person convicted of any misdemeanor under subsection
 207 (a) of this section may be fined in an amount not to exceed thirty
 208 thousand dollars. Each check, draft of money order cashed in violation
 209 of the provisions of subsection (a) of this section shall constitute a
 210 separate violation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	36a-580
Sec. 3	<i>October 1, 2005</i>	36a-581
Sec. 4	<i>October 1, 2005</i>	36a-584
Sec. 5	<i>October 1, 2005</i>	36a-585
Sec. 6	<i>October 1, 2005</i>	36a-586
Sec. 7	<i>October 1, 2005</i>	New section

Statement of Purpose:

To require that substantial stockholders, partners, directors, officers, agents and employees of licensees be required to submit to state and national criminal history records checks; to require that new licensees may not be located within two thousand five hundred feet of existing licensees; to require licensees to report all suspicious activities and suspected terrorist financing to the Attorney General; to exempt payroll service providers from the maximum fees provided in section 36a-585 of the general statutes; to increase from two thousand five hundred dollars to fifteen thousand dollars the maximum dollar amount a licensee may cash; and to establish civil and criminal penalties for cashing checks, drafts or money orders for consideration without obtaining a license.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]